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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of)
MICHAEL BOYER, D.D.S.) Administrative Action
Licensed to Practice Dentistry) CONSENT ORDER
in the State of New Jersey)

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information from a patient disclosing allegations of impairment as a result of prescription medications taken by Dr. Michael Boyer. The Board received a report from Clifford H. Schilke, M.D., Dr. Boyer's treating psychiatrist, as well as a psychological evaluation submitted by Frank J. Dyer, Ph.D., the Board's consultant. The Board having thoroughly reviewed the entire record before it and Dr. Boyer desiring to resolve this matter by consent without recourse to formal proceedings;

IT IS ON THIS 39th DAY OF ^{MAY}~~APRIL~~, 1991,

HEREBY ORDERED AND AGREED THAT:

1. Dr. Boyer shall enroll in the New Jersey Impaired Dentists Program (I.D.P.) and shall comply with a monitoring

program supervised by I.D.P. which shall include, at a minimum, the following conditions:

(a) Dr. Boyer shall have his urine monitored under the supervision of the Impaired Dentists Program on a random, unannounced basis, once weekly. The urine monitoring shall be conducted with direct witnessing of the taking of the samples either from a volunteer or drug clinic staff as arranged and designated by the I.D.P. The initial drug screen will utilize the EMIT technique and all confirming tests and/or secondary tests will be performed by gas chromatography/mass spectrometry (G.C./M.S.). The testing procedure will include a forensic chain of custody protocol to ensure sample integrity and to provide documentation to withstand a legal challenge. The I.D.P. shall be responsible to assure that all urine samples are handled by a laboratory competent to provide these services. All test results shall be provided in the first instance directly to the I.D.P., and any positive result will be reported immediately by the I.D.P. to Agnes Clark, Executive Director of the Board, or her designee in the event she is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

Any failure by Dr. Boyer to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event Dr. Boyer is unable to appear for a scheduled urine test or provide a

urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Dr. Frederick Rotgers or Dr. Barbara McCrady of the I.D.P. Neither the volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, Dr. Boyer must provide the I.D.P. with written substantiation of his inability to appear within two (2) days, e.g., a physician's report attesting that Dr. Boyer was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of the respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day. The I.D.P. shall advise the Board of every instance where a request has been made to waive a urine test together with the Program's determination in each such case.

The Board may in its sole discretion modify the frequency of testing or method of reporting during the monitoring period.

2. Dr. Boyer shall ^{attend} ~~continue~~ ~~in~~ ~~weekly~~ individual therapy in accordance with the recommendation of the I.D.P. ~~with Clifford H. Schinke, M.D.~~ Dr. Boyer shall cause ~~Dr. Schinke~~ the therapist to provide quarterly reports directly to the Board with respect to his attendance and progress in therapy.

3. Dr. Boyer shall not prescribe controlled dangerous substances for his personal use nor shall he possess such substances for his personal use except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause. Dr. Boyer shall cause any physician or dentist

who prescribes medication for him which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than seven (7) days subsequent to the prescription in order to avoid any confusion which may be caused by a confirmed positive urine test as a result of such medication.

Dr. Boyer shall be permitted to prescribe controlled dangerous substances for patients, as required in connection with dental treatment, in accordance with the following terms and conditions:

- a). Dr. Boyer shall obtain and exclusively employ prescription pads which provide triplicate copies of each prescription and which are consecutively numbered. Dr. Boyer shall maintain a separate such pad for each dental facility where he renders dental services.
- b). Dr. Boyer shall provide the original of the prescription to the patient, he shall place one copy in the patient's chart, and he shall submit one copy of all prescriptions to the Board on a monthly basis. Dr. Boyer shall be required to account for each consecutive number, regardless of whether the particular description was voided or not used for any purpose whatsoever.
- c). Dr. Boyer shall submit copies of these prescriptions in consecutive order separated

according to dental facility no later than the fifth (5th) day of each month for all prescriptions written in the previous month. These shall be submitted to Agnes Clark, Executive Director of the Board, at 1207 Raymond Boulevard, 6th Floor, Newark, New Jersey 07102, so that they may be reviewed and monitored by the Board. The first submission shall provide a complete list of each dental facility where Dr. Boyer shall maintain such prescription pads, including the full name of the facility, address and telephone number, and shall be due no later than June 5, 1991, for all prescriptions written in May starting on the entry date of the within Order.

4. Dr. Boyer shall provide appropriate releases to any and all parties who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

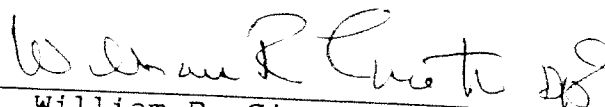
5. All costs associated with the monitoring program as outlined herein shall be paid directly by Dr. Boyer.

6. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in any manner

whatsoever, including, but not limited to, a verbal report of a confirmed positive urine or any other evidence that Dr. Boyer has used an addictive substance, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue.

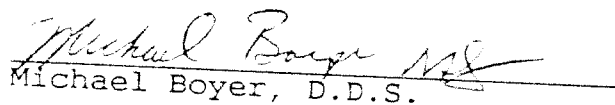
Any confirmed positive urine test shall be presumed valid, and Dr. Boyer shall bear the burden of demonstrating its invalidity.

7. Dr. Boyer may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date herein.



William R. Cinotti, D.D.S.
President
State Board of Dentistry

I have read the within Order.
I understand the Order and I
agree to be bound by it. I
hereby consent to its form and
entry.


Michael Boyer, D.D.S.